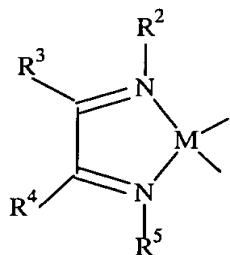


Remarks

Claims 12 - 20 have been rejected over Brookhart et al. U.S. Patent 5,880,241 (“*Brookhart*”) under 35 U.S.C. § 102(b). The Office contends that *Brookhart* discloses olefin polymerization employing “a substantially identical catalyst.” Applicant respectfully traverses this rejection, as first, anticipation requires strict identity, not “substantial” identity, and second, *Brookhart* not only does not disclose the claimed catalysts, but moreover teaches away from them.

The catalyst of *Brookhart* have a structure



where R² and R⁵ are both hydrocarbyl, with the specific *proviso* that the carbon atom bonded to the imino nitrogen has at least two carbons bonded to it, i.e. is a branched, secondary or tertiary hydrocarbon moiety. *See, e.g.* column 33, lines 31 - 34.

In contrast, the catalysts of the subject invention have a structure where Applicant’s groups which correspond to R² and R⁵ are hydrogen (preferably, and specifically claimed in claim 6) or the remaining groups listed in claims 1 and 12, with the proviso that not more than one of these groups is branched at the imino carbon atom. *Brookhart* specifically requires both these hydrocarbons to be branched at this position, thus not only distinguishing *Brookhart* from the present invention, but teaching away from the invention as well. Teaching away is strong evidence of non-obviousness, *W.L. Gore V. Garlock*, 220 U.S.P.Q. 303 (Fed. Cir. 1983), and thus not only are the claims not anticipated, they are non-obvious as well. Withdrawal of the rejection of the claims under 35 U.S.C. § 102(b) is solicited.

Applicants submit that the claims are now in condition for Allowance, and respectfully request a Notice to that effect. If the Examiner believes that further discussion will advance the prosecution of the Application, he is highly encouraged to telephone Applicants' attorney at the number given below.

Respectfully submitted,

LINDA N. WINSLOW

By 

William G. Conger

Reg. No. 31,209

Attorney/Agent for Applicant

Date: September 4, 2003

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351